

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

05032-00044

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on April 24, 2006  
Signature Laurie Hall

Typed or printed name Laurie Hall

Application Number

10/694,688

Filed

Oct. 28, 2003

First Named Inventor

Jeroen Mattijs Bezemer (et al.)

Art Unit

1618

Examiner

Zohreh A. Fay

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 34,628

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

John P. Iwanicki  
Signature

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Typed or printed name

(617) 720-9600

Telephone number

4-24-06

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

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PATENT  
ATTORNEY DOCKET NO. 05032-00044

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Jeroen Mattijs Bezemer,	)	Examiner: Zohreh A. Fay
Clemens Antoni van Blitterswijk,	)	
Jan Feijen, and Dirk Wybe Grijpma	)	
	)	
Serial No.: 10/694,688	)	Art Unit: 1618
	)	
Filed: October 28, 2003	)	
	)	
Title: POLYMERS WITH BIOACTIVE AGENTS	)	

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF REVIEW**

Applicants respectfully request pre-appeal brief review for the following reasons.

In the present final Office Action dated December 29, 2005, the Examiner has clearly erred by failing to identify references teaching or suggesting all of Applicants' claim limitations. The Examiner has failed to identify where in the cited references all of Applicants' claim limitations can be found. The Examiner has also failed to provide any reasons why the cited references render the claimed subject matter obvious despite their failure to teach or suggest all of Applicants' claim limitations. The Examiner has therefore failed to establish a *prima facie* case of obviousness.

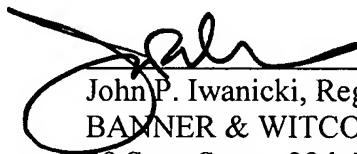
In the Response dated August 22, 2005, Applicants describe the pending subject matter and explain that the Examiner's combination of Vacanti and Martin fails to teach or suggest the

affirmative method step of *adding an aqueous solution of the bioactive agent to the polymer solution to form an emulsion* in the claimed method for forming an implant. See Response to Office dated April 22, 2005 at pages 6-8. Applicants describe this method step as beneficially effecting the formation of polymer fibers. Id. at 7. In the present final Office Action dated December 29, 2005, the Examiner has failed to address the absence of this affirmative method step from the Vacanti and Martin references. The reasons advanced by the Examiner for maintaining the rejection are those previously presented at pages 3-4 of the office action dated June 25, 2005. A review of that Office Action reveals that the Examiner has similarly failed to assert that Vacanti and Martin teach or suggest the affirmative method step of *adding an aqueous solution of the bioactive agent to the polymer solution to form an emulsion*.

Accordingly, Applicants respectfully request a pre-appeal brief review.

Respectfully submitted,

Dated: April 24, 2006

  
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